

COMMISSIONERS APPROVAL

ROKOSCH *JHR*

GRANDSTAFF *cg*

THOMPSON *at*

CHILCOTT *g*

DRISCOLL *CD*

PLETTENBERG (Clerk & Recorder)

Date.....October 23, 2007

Members Present.....Commissioner Carlotta Grandstaff,
Commissioner Alan Thompson, Commissioner Greg Chilcott and Commissioner
Kathleen Driscoll

Minutes: Beth Perkins

The Board met for a Request for Commission Action regarding Donaker Estates Minor
Subdivision. Present were Planner Tristan Riddell, Surveyor Leonard Shepherd, and
Developer Rudy Kratofil.

Commissioner Grandstaff opened the public meeting. She requested any conflicts of
interest, hearing none. She then requested the Planning Staff Report be presented.

Tristan presented the report as follows:

**DONAKER ESTATES
FIVE-LOT MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS (BCC)

CASE PLANNER: Tristan Riddell

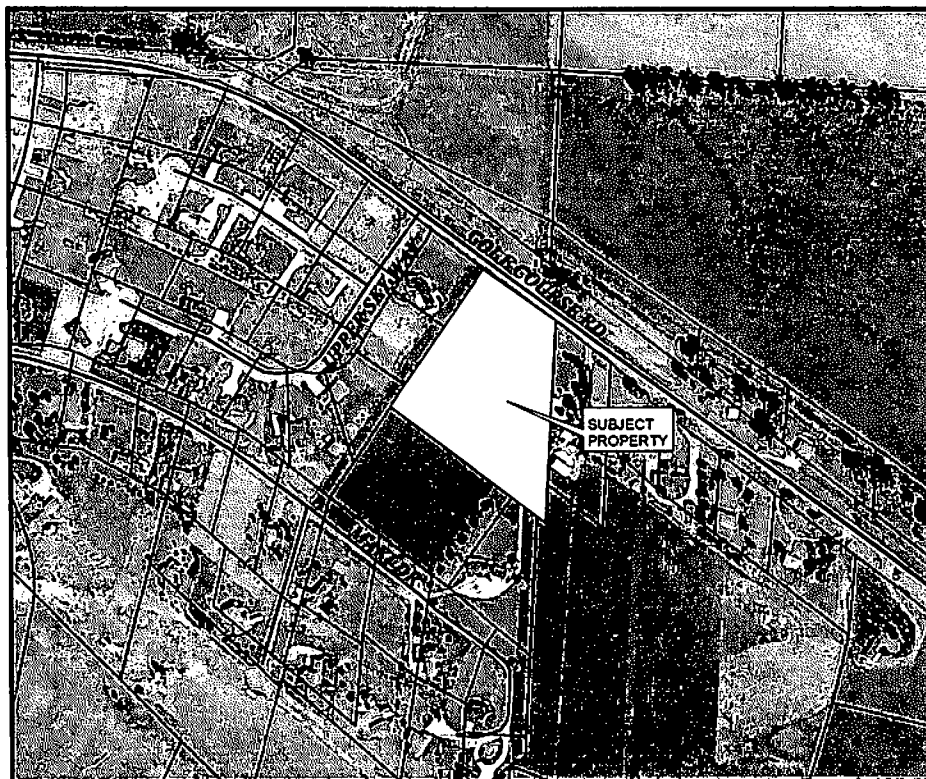
**REVIEWED/
APPROVED BY:** Renee Van Hoven

PUBLIC MEETING: BCC Public Meeting: 9:00 a.m.
October 23, 2007
Deadline for BCC action:
October 31, 2007

SUBDIVIDER: Rudy & Bernice Kratofil
545 Golf Course Road
Hamilton, MT 59840

REPRESENTATIVE: Shepherd Surveying
Leonard Shepherd
320 Adirondac
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located southeast of Hamilton
off Golf Course Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A portion of the E ½ Section 32, T6N, R20W, P.M.M.,
Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The subdivision application was determined complete
on September 11, 2007. Agencies were notified of the
subdivision and comments received by the Planning
Department not included in the application packet are
Exhibits A-1 and A-4 of the staff report.

LEGAL NOTIFICATION:

Notice of the project was posted on the property and
adjacent property owners were notified by certified
mail postmarked September 21, 2007.

**APPLICABLE
REGULATIONS:**

The proposal is being reviewed under the Ravalli
County Subdivision Regulations (RCSR), as amended
May 24, 2007.

**DEVELOPMENT
PATTERN:**

Subject property	Agricultural Rural
North	Agricultural Rural
South	Residential Rural
East	Residential Rural
West	Residential Rural

INTRODUCTION

The Donaker Estates minor subdivision is a five-lot residential proposal on 5.03
acres located approximately two miles southeast of Hamilton. The property is
currently vacant. Each lot is proposed to have individual well and septic systems.

Staff recommends conditional approval of the subdivision.

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS
OCTOBER 23, 2007**

**DONAKER ESTATES
FIVE-LOT MINOR SUBDIVISION**

RECOMMENDED MOTION

That the Donaker Estates minor subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and attachments shall be included in the submittal of the final plat to the Planning Department and filed with the Clerk & Recorder's Office:

Notification of Proximity to Agricultural Operations. This property is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Limitation of Access onto a County Road. A "no-ingress/egress" restriction exists along the Golf Course Road frontage of this property, excepting the approved approach for the internal subdivision road, [insert road name here]. All units on this property must use this approved approach. This limitation of access may be lifted or amended only with the approval of the Ravalli County Board of County Commissioners. *(Effects on Local Services and Public Health & Safety)*

Notification of Road Maintenance Agreement. The internal subdivision road [insert road name here] is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with the Clerk & Recorder's Office and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

Notification of Irrigation Facilities and Easements. On this property there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. Maintenance of the ditch may include the use of motorized construction equipment, fire, and/or herbicides. The filed subdivision plat shows the irrigation easements on the property. The downstream water rights holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easements to maintain the ditches. (Include a reduced copy of the final plat as an exhibit) *(Prerequisites to Approval and Effects on Agricultural Water User Facilities)*

Notification of Proximity to Public Airport. This subdivision is located near the Ravalli County Airport. Standard operation of the airport creates noise levels that some people may find objectionable. In addition, there are inherent hazards to nearby properties associated with aircraft operations. *(Effects on Local Services and Public Health & Safety)*

Notification of Severe Soils. On this property there are areas identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as severe for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. *(Effects on Public Health & Safety)*

2. The following protective covenants for this property shall be submitted with the final plat and filed with the Clerk & Recorder's Office. The subdivider should include a copy of the covenants with a rental or lease agreement for each unit. The covenants shall include the following provisions:

Living with Wildlife. (See Exhibit A-1 for required provisions.) *(Effects on Wildlife & Wildlife Habitat)*

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction on this property. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. *(Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*

Wood Stoves. The County recommends that home owners install EPA-certified wood stoves to reduce air pollution. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Credit for the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. *(Effects on Natural Environment)*

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their buildings tested for radon. Contact the

Ravalli County Environmental Health Department for further information.
(Effects on Public Health & Safety)

Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. The property owner shall control the growth of noxious weeds on the property. Contact the Ravalli County Weed District for further information. *(Effects on Agriculture and Natural Environment)*

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards, which require lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

Access Requirements for Lots within this Subdivision. The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

Recommended Building Standards. The Hamilton Rural Fire District recommends that buildings on this property be built to International Residential Building Code (IRBC) building standards. For more information, contact the Hamilton Rural Fire District at PO Box 1994, Hamilton, MT 59840. *(Effects on Local Services and Public Health & Safety)*

Airport Influence Area. This subdivision is located within the Airport Influence Area, as established by Resolution #1302, adopted by the Board of County Commissioners on November 27, 2002. Resolution #1366, adopted by the Board of County Commissioners on November 20, 2003, established the Airport Influence Area Regulations. Lots within this subdivision are subject to these Regulations, and any future amendments thereof. Please be advised that these Regulations state, among other things, that "No material change may be made in the use of the land and no structure or tree may be erected, altered, planted, or otherwise established in the Airport Influence Area, unless a permit for the use has been granted." *(Effects on Local Services, Public Health & Safety, and Compliance with Applicable Regulations)*

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall submit a letter or receipt from the Hamilton School District stating that they have received (an amount to be determined by the Board of County Commissioners in Consultation with the Subdivider)-per-lot contribution prior to final plat approval.. *(Effects on Local Services)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Hamilton Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Hamilton Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". *(Effects on Local Services and Public Health & Safety)*
7. The subdivider shall submit an (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
8. The Road Maintenance Agreement for Rudy's Way shall state that other parcels that may have beneficial use of the road shall be allowed to join as members of the agreement without the consent of the current members. *(Effects on Local Services)*
9. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*

10. The final plat shall show a no-ingress/egress zone along the Golf Course Road frontage of the subdivision, excepting the approach for the internal road, as approved by the Road and Bridge Department. *(Effects on Local Services and Public Health and Safety)*
11. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. *(Effects on Local Services)*
12. Stop signs and road name signs shall be installed at the intersection of all roads prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
13. An Avigation Easement shall be granted by the subdivider to Ravalli County and recorded with the Clerk and Recorder's Office concurrent with the filing of the final plat, unless written evidence from the Airport Board is provided indicating that an Avigation Easement is not necessary. *(Effects on Local Services and Public Health and Safety)*
14. The following statement shall be included on the final plat: "This subdivision lies within the Ravalli County Airport Influence Area and is subject to the Ravalli County Airport Influence Area Regulations". *(Effects on Local Services and Public Health & Safety)*
15. *The applicant shall provide evidence that a public road and utility easement covering the portion of the turnaround for Rudy's Way has been granted by the owners of Parcel D of COS#548660 (Effects on Local Services and Public Health and Safety)*

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision meets the following requirements:

A. Provides easements for the location and installation of any planned utilities.

Findings of Fact

1. The preliminary plat indicates that existing utility easements are located along the Golf Course Road frontage of the subdivision. Utility easements are proposed along the internal subdivision road.

2. According to the preliminary plat application, a 2-inch natural gas service line and associated 10-foot easement are located along the eastern property boundary of proposed Lot 5.
3. Section 3-4-4(a)(ii) of the RCSR requires that the existing and proposed utility easements are shown on the final plat.

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plan and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed by US Highway 93, Golf Course Road, and the internal subdivision road, Rudy's Way.
2. Golf Course Road is listed as a County-maintained road in Exhibit A of the RCSR.
3. According to the preliminary plat application, the applicant is proposing to construct an internal road, Rudy's Way, to meet County standards. The road plans have received preliminary approval (Exhibit A-1). Section 3-4-4 requires final road plans, road certifications, and final approval from the Road Department that the roads were constructed to meet County standards prior to final plat approval.
4. According to the preliminary plat application, the applicant is proposing a 60-foot wide road easement for Rudy's Way. The road is proposed to terminate on Parcel D of Certificate of Survey 548660. Section 3-4-4(a)(ii) of the RCSR requires that public road and utility easements are shown on the final plat.

Conclusion of Law

Legal and physical access is provided on Golf Course Road and proposed Rudy's Way.

C. Assures that all required public or private improvements will be installed before final plan approval, or that their installation after final plan approval will be guaranteed as provided by Section 3-4-2 of the RCSR.

Findings of Fact

1. The subdivider is proposing to construct an internal road, Rudy's Way.
2. Section 3-4-4(a)(xxvi) requires that the subdivider submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plan approval.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

1. The application states that the property has water shares through the Daly Ditches Irrigation District, and that the shares will be divided among the newly created lots.
2. The Daly Ditches Irrigation District acts as a single entity in distributing water shares.
3. A letter from Daly Ditches approving the reallocation of water shares is included in the preliminary plat application.

Conclusion of Law

Since the property is within the Daly Ditches Irrigation District and the proposal has received the Irrigation District's approval, this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plan is submitted.**

Findings of Fact

1. According to the application and the preliminary plat, there is a proposed 10-foot wide irrigation easement traversing the southern portion of Lot 4.
2. Section 3-4-4(a)(ii)(V) requires that irrigation easements are shown on the final plat.
3. The placement of structures or the planting of vegetation other than grass within ditch easements is prohibited in 76-3-504(1)(k) MCA, without the written permission of the downstream water users. To meet this requirement, the subdivider shall place a notification in the Notifications Document that permission from the downstream water users is required for any alterations within the irrigation easement. (*Condition 1*)

Conclusion of Law

With the requirements of final plat approval and a condition requiring a notification that permission from the downstream water users is required for any alterations within the easement, this requirement will be met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Finding of Fact

Chapter 6 of the RCSR allows for either a land donation/dedication or cash-in-lieu of parkland donation/dedication for minor subdivisions beginning October 1, 2007, as amended in MCA 76-3-621. This proposal was deemed sufficient prior to that date. There is no parkland requirement associated with this proposal.

Conclusion of Law

Parkland donation/dedication is not required for this proposal.

G. Overall Findings and Conclusions on Prerequisite Requirements

With the conditions and requirements of final plat approval, there is credible evidence that the subdivision application meets the prerequisite requirements.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Finding of Fact

The Ravalli County Planning Department has reviewed this proposal in compliance with the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. With the conditions and requirements of final plat approval for the subdivision, the application will meet the design standards in Chapter 5.

Conclusions of Law

1. With the conditions and requirements of final plat approval for the subdivision, the preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision, as outlined in Chapter 3 of the RCSR, have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. This subdivision is subject to the settlement agreement filed in the *Lords et al. v. Ravalli County* lawsuit regarding the Interim Zoning Regulations enacted November 7, 2006 [Resolution 2038] and may be affected by future actions resulting from said settlement.
2. The subdivision is not located within a Voluntary Zoning District.

Conclusion of Law:

Zoning does not apply at this time.

C. Existing covenants and/or deed restrictions.

Findings of Fact

Covenants as recorded in Book 136 Page 168 (and subsequent amendments) no longer effect the subject property. On November 9, 2006 an agreement was filed (Document #580145) removing the subject property from the Skyline Homeowners Association and all associated covenants.

Conclusion of Law

There are no covenants associated with the subject property.

D. Other applicable regulations.

Findings of Fact

1. Following are applicable regulations:

- Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
- Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
- Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
- Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
- Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
- Airport Influence Area

2. The subdivider was made aware of the applicable regulations at the updated pre-application conference held on June 20, 2007.

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The property is located approximately two miles southeast of the City of Hamilton off Golf Course Road. According to the Montana Cadastral Database created by the Montana Department of Administration Information Technology Services Division Geographic Information Services, the parcels surrounding the property are classified as agricultural rural or residential rural for tax purposes. From the Montana Cadastral Database, the 2004 aerial photograph, and preliminary plat, it appears that the parcels to the north and southeast of the subdivision property may be used for agriculture.

To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the Ravalli County Clerk & Recorder's Office. (Condition 1)

2. There are no soils listed as Prime Farmland or Farmland of Statewide Importance by the Natural Resources Conservation Service (Source: U. S. Department of Agriculture, Natural Resources Conservation Service – 6/11/96) located on the property.
3. The Planning Department received an approved Ravalli County Subdivision Noxious Weed Evaluation Form from the Ravalli County Weed District that states Spotted Knapweed is located on the property. (Application) This is considered a Category 1 noxious weed. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider will include a provision in the covenants that the owners of each lot control noxious weeds.

To mitigate impacts on agriculture, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)

Conclusion of Law:

With the mitigating conditions and requirements of final plat approval, impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. According to the application and the preliminary plat, there is a proposed 10-foot wide irrigation easement that traverses the southern portion of Lot 4.

The following requirement and condition will mitigate impacts on agricultural water user facilities:

- *Section 3-4-4(a)(ii)(V) requires that the 10-foot wide irrigation easement is shown on the final plat.*
 - *A notification stating that the irrigation easement is located on the property and downstream water users must approve relocations or alterations of the irrigation pipeline shall be filed with the Clerk & Recorder. (Condition 1)*
2. According to the application, this property has water shares through the Daly Ditches Irrigation District. The subdivider is proposing to divide the water shares between the newly created lots. Daly Ditches has approved the reallocation of water.

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. The subdivision is located within the Hamilton Rural Fire District. The Hamilton Rural Fire District adopted Fire Protection Standards on September 6, 2005 (Exhibit A-3).

The following conditions will mitigate impacts of the subdivision on the Fire District:

- *A provision in the covenants recommends that all the buildings within the subdivision be built to International Residential Building Codes. (Condition 2)*
 - *The applicant shall provide adequate water supply or a \$500 per lot contribution, as approved by the Fire District. (Condition 5)*
 - *The subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (Conditions 2 and 9)*
 - *The following statement shall be shown on the final plat: "The Hamilton Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Hamilton Rural Fire District for further information". The statement shall also be included in the covenants. (Conditions 2 and 6)*
2. With this subdivision, it is estimated that approximately 2.5 school-aged children will be added to the Hamilton School District, assuming an average of .5 children per single family residence (Source: Census 2000).
 3. The subdividers stated they will make a voluntary contribution to the School District, but did not specify an amount.
 4. The Hamilton School District was notified of the subdivision proposal. To date the Planning Department has not received any comments specific to this proposal.

To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Hamilton School District stating that they have received a (amount)-per-lot contribution prior to final plat approval. (Condition 4) (Staff Note: Since the applicants and the School District did not agree on an amount, staff recommends that the BCC negotiate an amount with the applicants and include the appropriate finding(s) supporting the amount in their decision.)

5. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems.
6. The Ravalli County Sheriff's Office provides law enforcement services to this area. No comments have been received by the Sheriff's Office. The current level of service is not known, but it is generally understood that the Sheriff's Office is operating at an inadequate level of service. The applicant is not proposing any mitigation.

To mitigate impacts on the law enforcement, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 7) (Staff Note: Since the current or planned level of service for the Sheriff's Office is unknown and the applicant has not proposed any mitigation, Staff recommends the BCC negotiate an amount per lot with the applicants and include the appropriate finding(s) supporting the amount in their decision.)

7. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. No comments have been received from this entity.
8. Bitterroot Disposal provides service to this site.
9. The application states that Qwest and Ravalli County Electric Co-Op will provide utilities to the new units. There is an existing public utility easement on Golf Course Road and a proposed 60-foot wide road and utility easement along Rudy's Way.

Section 3-4-4(a)(ii)(V) requires that the existing and proposed utility easements are shown on the final plan.

10. There are five proposed single-family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 40 vehicular trips per day, assuming 8 trips per day per single-family dwelling.
11. Golf Course Road is a County-maintained road providing access to the subdivision.

To mitigate impacts on the off-site road leading to the subdivision, the following conditions and requirement shall be met:

- *Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve the portion of Golf Course Road leading to the subdivision to meet County standards.*
- *Section 3-4-4(a)(xiii) requires that the subdivider submit an approved approach permit from the Ravalli County Road and Bridge Department for the approach off Golf Course Road..*
- *The final plan shall show a no-ingress/egress zone along the Golf Course Road frontage of the subdivision, excepting the approach for Rudy's Way, as approved by the Ravalli County Road and Bridge Department. A notification of this limitation of access shall be included in the notifications document. (Conditions 1 and 10)*

12. The subdivider is proposing to construct an internal subdivision road to provide access to all lots within the subdivision. The application packet states that the internal road is proposed to meet County standards. The road plans have received preliminary approval from RCRBD (*Exhibit A-1*).

13. A preliminary Road Maintenance Agreement was included in the preliminary plat application.

To ensure that future lot owners have adequate access and to mitigate impacts on local services, the following requirements and conditions shall be met:

- A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ, evidence of a Ravalli County-approved road name petition for each new road, final road plans and grading and storm water drainage plan, road certifications, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*
- The final plat application packet is required to include a road maintenance agreement for Rudy's Way that meets the requirements of the Ravalli County Subdivision Regulations per Section 3-4-4(a)(xix). A notification of the road maintenance agreement shall be included in the notifications document filed with the Clerk & Recorder's Office. (Condition 1)*
- The 60-foot wide easement for Rudy's Way shall be labeled as a public road and utility easement on the final plat. (Condition 11)*
- The applicant shall provide evidence that a public road and utility easement covering the portion of the turnaround for Rudy's Way has been granted by the owners of Parcel D of COS#548660. (Condition 15)*
- A stop sign and road name sign shall be installed at the intersection of Golf Course Road and Rudy's Way. (Condition 12)*
- To avoid duplication of road maintenance between the future owner(s) of this property and other properties to the south, which may have access, the Road Maintenance Agreement for Rudy's Way filed with the Clerk & Recorder's Office shall allow for other properties that have beneficial use of the internal subdivision road to be included as parties to this agreement without the consent of the property owners within this lot. (Condition 8)*

14. The proposed subdivision is within the Ravalli County Airport Influence Area. Avigation easements are commonly used by airports to provide an easement and right-of-way for unobstructed passage of aircraft in, through, and across the airspace above the Grantor's property at a certain elevation.

To mitigate impacts on local services, the following requirements and conditions shall be met:

- An Avigation Easement, approved by the Ravalli County Airport Board, shall be granted by the subdivider to Ravalli County, unless written evidence from the Airport Board is provided indicating that an Avigation Easement is not necessary. (Condition 13)*
- A notification of the proximity to the airport shall be included in the notifications document and on the final plat. The covenants shall include a provision regarding Airport Regulations. (Conditions 1, 2, and 14)*

15. There are not currently any known RSID/SID districts affecting this property.

To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plan shall address these services/facilities. (Condition 3)

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plan approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

1. In an email dated January 10, 2007 (Exhibit A-2), the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles and wood-burning stoves. The applicant is proposing to construct the internal road to meet County standards, which includes pavement.

To mitigate impacts on the natural environment, a recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)

2. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (Exhibit A-3).

Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.

3. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution.

To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)

4. The Planning Department received an approved Ravalli County Subdivision Noxious Weed Evaluation Form from the Ravalli County Weed District that states Spotted Knapweed is located on the property. (Application) This is considered a Category 1 noxious weed. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days

prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider will include a provision in the covenants that the owners of each lot control noxious weeds.

*To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the Clerk & Recorder's Office.
(Condition 2)*

5. Both the State Champion Tree and Palish Sedge were identified by the Montana Natural Heritage Program as plant species of concern within the same section as the subject property, but because there were no signs of the plants present on the property, the subdivider requested and received a waiver from the requirement to submit a sensitive species report.

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

1. Recommendations and comments from Fish, Wildlife & Parks from a letter dated September 13, 2005, (Exhibit A-4) are summarized as follows:
 - a) The property is located near agricultural lands, natural drainage features to the north and south, the Hedge Ditch to the east, along with minor riparian areas associated with these areas.
 - b) There is a possibility of human/wildlife interactions at the proposed location.
 - c) Living with wildlife provisions should be included in a development covenant to future landowners, in order to help homeowners deal with and avoid potential wildlife issues.

To minimize impacts of the subdivision on wildlife habitat, the following conditions shall be met:

- *Living with wildlife provisions shall be included in the covenants. (Condition 2)*
- *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

2. The Bald Eagle, Grey Wolf, and Townsend's Big Eared Bat were identified by the Montana Natural Heritage Program as species of concern within the same section as the subject property. Because the property does not have habitat supportive of these species, the subdivider requested and received a waiver from the requirement to submit a sensitive species report.

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plan approval, impacts on wildlife & wildlife habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

1. The applicant is proposing to construct the internal road, Rudy's Way, to meet County standards. (See *Effects on Local Services*)

To mitigate impacts on traffic safety, the following conditions and requirements shall be met:

- *The applicants shall pay the pro rated share of the cost to improve the portion of Golf Course Road leading to the subdivision to meet County standards, as required by Section 5-4-5(d).*
 - *Section 3-4-4(a)(ii)(xiii) requires that the applicant submit an approach permit from the Road Department for the new approach off Golf Course Road..*
 - *The final plat shall show a no-ingress/egress zone along the Golf Course Road frontage of the subdivision, excepting the approach for the internal road, as approved by the Ravalli County Road and Bridge Department. A notification of this limitation of access shall be included in the notifications document. (Conditions 1 and 10)*
 - *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ, evidence of a Ravalli County-approved road name petition for each new road, final road plans and grading and storm water drainage plan, road certifications, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*
 - *A stop sign and road name sign shall be installed at the intersection of Golf Course Road and Rudy's Way. (Condition 12)*
 - *The subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (Conditions 2 and 9)*
 - *The applicant shall provide evidence that a public road and utility easement covering the portion of the turnaround for Rudy's Way has been granted by the owners of Parcel D of COS#548660 (Condition 15)*
2. The proposed subdivision will be served by the Hamilton Rural Fire District, the Ravalli County Sheriff's Office, and the Marcus Daly Memorial Hospital EMS Department. (See *Effects on Local Services*)

To mitigate impacts on emergency providers, the following conditions shall be met:

- *A provision in the covenants shall recommend that all the buildings within the subdivision be built to International Residential Building Codes. (Condition 2)*

- *The subdivider shall provide a letter from the Hamilton Rural Fire District stating that a contribution of \$500-per-unit for the two new units has been made prior to final plan approval. (Condition 5)*
 - *All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. This statement shall be included in the covenants and on the final plat. (Conditions 2 and 6)*
 - *To mitigate impacts on the law enforcement, the subdivider shall submit an (amount-per-unit) contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plan approval. (Condition 7) (Staff Note: Since the current or planned level of service for the Sheriff's Office is unknown and the subdivider has not proposed any mitigation, Staff recommends the BCC negotiate an amount-per-unit with the subdivider.)*
3. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (Exhibit A-3).

Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.

4. The preliminary plan and soils map indicate that the subdivision may have soils rated as severe for road and building construction.

To educate property owners and to mitigate potential impacts of this subdivision on public health & safety, a notification of the potential for severe soils shall be included in the notifications document filed with the Clerk & Recorder. A reduced plan showing the approximate locations of soils rated as severe for roads and building construction and descriptions of the severe soils in question shall be attached to the notifications document as an exhibit. (Condition 1)

5. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. (Condition 2)
6. According to a document titled *Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water* published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)
7. The proposed subdivision is within the Ravalli County Airport Influence Area. Avigation easements are commonly used by airports to provide an easement and right-of-way for unobstructed passage of aircraft in, through, and across the airspace above the Grantor's property at a certain elevation.

To mitigate impacts on local services, the following requirements and conditions shall be met:

- An Avigation Easement, approved by the Ravalli County Airport Board, shall be granted by the subdivider to Ravalli County, unless written evidence from the Airport Board is provided indicating that an Avigation Easement is not necessary. (Condition 13)*
- A notification of the proximity to the airport shall be included in the notifications document and on the final plat. The covenants shall include a provision regarding Airport Regulations. (Conditions 1, 2, and 14)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on public health & safety.

Commissioner Grandstaff opened for public comment.

Leonard Shepherd stated they are in agreement with the Staff Report.

Dan Kratofil, representative for Rudy Kratofil, stated he has some questions regarding the influence area for the airport. Tristan replied they have addressed the issue. Leonard agreed with Tristan.

Commissioner Chilcott stated he would like to include a notification of aviation/airport noise on the plat. Dan replied he will include that notification. Commissioner Driscoll stated the airport is tightening up the landing area.

Commissioner Grandstaff requested any other public comment, hearing none.

Commissioner Grandstaff opened Board deliberations.

Criteria One – Effects on Agriculture: Commissioner Thompson stated there is alfalfa on this parcel of ground, but not a profitable crop. Commissioner Grandstaff requested a vote. The Board discussed the proposed mitigation, specifically the noxious weed plan. **All Commissioners voted criteria one sufficiently mitigated.**

Criteria Two – Effects on Agriculture Water-User Facilities: **All Commissioners voted criteria two sufficiently mitigated.**

Criteria Three – Effects on Local Services: Commissioner Grandstaff discussed the offered mitigation of \$500 per new lot to Fire District. Dan agreed to the offer of \$500 per new lot to the Fire District.

The Board discussed the impacts on the School District. Leonard stated the offer is \$500 per new lot for the School District.

Commissioner Grandstaff requested an offer for the Sheriff's Office. Commissioner Thompson suggested \$500 per new lot. Leonard agreed to the offer of \$500 per new lot for Sheriff's Office.

Commissioner Chilcott stated they should recognize the volunteer hours for the school district from the Kratofils.

All Commissioners voted criteria three sufficiently mitigated.

Criteria Four – Effects on Natural Environment: Commissioner Grandstaff discussed the use of wood stoves not being the primary source of heat. Tristan replied it will be in the covenants. Board discussion followed regarding why they are requesting the non-use of wood stoves as a primary heat source. Commissioner Grandstaff discussed the EPA recommendations.

Tristan stated the language should reflect the non-use of wood stoves as a primary heat source. Board discussion followed regarding meeting EPA standards. Commissioner Chilcott stated the primary heat source emissions stated to be 75%, maybe it should be 80%. Commissioner Grandstaff requested adding into the covenant language notification of aviation/airport noise. Tristan replied it is already added.

All Commissioners voted criteria four sufficiently mitigated.

Criteria Five – Effects on Wildlife and Wildlife Habitat: Commissioner Grandstaff asked about the gray wolves. Leonard replied it has been mitigated. **All Commissioners voted criteria five sufficiently mitigated.**

Criteria Six – Effects on Public Health and Safety: Commissioner Grandstaff addressed the traffic issue and emergency response time. Leonard stated the road improvement plan addresses the access point. **All Commissioners voted criteria six sufficiently mitigated.**

Commissioner Chilcott made a motion to approve Donaker Minor Subdivision based on the findings of fact and conclusion of law in the Planning Staff Report and the mitigation of contributions of \$500 per new lots for the Hamilton Fire District, Hamilton School District and Sheriff's Office, with the contributions made upon filing of the final plat, and to include the language of the non-use of wood stoves as a primary heat source in the covenants. Commissioner Driscoll seconded the motion, all voted 'aye'.

In other business, the Board met with Information Technologies (IT) Director Joe Frohlich to discuss and possibly make a decision on a Web site hosting for special districts. (Commissioner Grandstaff was not present for this meeting). Joe gave an update of recent events within IT such as purchasing new software and installing a new server.

Joe discussed Florence Water and Sewer District becoming a part of the Ravalli County website. He expressed his concerns regarding both time and cost. Board discussion followed.

Commissioner Chilcott suggested they figure out the expenditure for personnel costs and then the Board will evaluate it. Commissioner Driscoll agreed with Commissioner Chilcott.

Commissioner Chilcott stated Joe will also need a Memorandum of Understanding (MOU) with these Boards. He recommended Joe consult with Civil Counsel Alex Beal. Joe will draft both the MOU and an expenditure report bringing it back to the Board.

The Board met with the Extension Service Office for approval of Budget Agreement. Present were Human Resource Director Skip Rosenthal and Extension Agent Katelyn Andersen. Skip gave a review of the budget agreement. Katelyn concurred with Skip. Board discussion followed regarding pay scale and benefits.

Commissioner Chilcott made a motion to approve the Extension Service Budget Agreement for FY 2008. Commissioner Thompson seconded the motion, all voted 'aye'.

Commissioner Driscoll met with members of the Animal Protection and Control Board during the afternoon hours.

Commissioner Thompson attended a Resource Advisory Counsel meeting during the evening hours in Hamilton.